

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID C. WALLS, individually and as
Administrator of the ESTATE of DAVID
R. WALLS,

Plaintiff,

v.

FTS INTERNATIONAL, INC., FRAC
TECH, SERVICES, LLC, FRAC TECH
INTERNATIONAL, LLC,

Defendants.

CASE NO.:

Electronically Filed

JURY TRIAL DEMANDED

PETITION FOR REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, the Defendants, FTS International, Inc. and FTS International Services, LLC (incorrectly identified in the Complaint as "Frac Tech Services, LLC and Frac Tech International, LLC) (hereinafter collectively referred to as "Defendants"), by and through their counsel, Marshall Dennehey Warner Coleman & Goggin, and Stuart H. Sostmann, Esquire, and hereby file this Petition for Removal and remove to the United States District Court for the Western District of Pennsylvania the state court action described below:

1. This action arises from a motor vehicle accident involving the Decedent, David R. Walls (hereinafter "Decedent"), which ultimately resulted in the death of Decedent.
2. On or about October 20, 2015, the Plaintiff, David C. Walls, individually and as Administrator of the Estate of David R. Walls (hereinafter "Plaintiff"), commenced an action by

Writ of Summons in the Court of Common Pleas of Allegheny County, Pennsylvania at docket number GD-15-018473. *See* Praecipe for Writ of Summons, a true and correct copy attached hereto as Exhibit "A".

3. On or about June 2, 2017, Plaintiff filed a Complaint in the Court of Common Pleas of Allegheny County, Pennsylvania. *See* Complaint, a true and correct copy attached hereto as Exhibit "B".

4. In the Complaint, Plaintiff raises Wrongful Death, Survival, and Negligence/Gross Negligence causes of action against Defendants. *Id.* at ¶¶ 18-31.

5. In addition to wrongful death and survival damages, Plaintiff also contends that he is entitled to punitive damages. *Id.* at ¶ 31.

6. Pursuant to Pennsylvania Rule of Civil Procedure 401, "[i]f an action is commenced by writ of summons and a complaint is thereafter filed, the plaintiff instead of reissuing the writ may treat the complaint as alternative original process and as the equivalent for all purposes of a reissued writ, reissued as of the date of the filing of the complaint." Pa.R.C.P. 401(b)(5).

7. Accordingly, the Complaint was served on Defendants on or about June 2, 2017.

8. The following pleadings have been filed in this action to date:

(a) Praecipe for Writ of Summons;

(b) Praecipe to Reissue Writ of Summons;

(c) Certificate of Service;

(d) Complaint; and

(e) Praecipe for Appearance by Stuart H. Sostmann, Esquire and Lauren E. Purcell, Esquire for Defendants.

See Court of Common Pleas of Allegheny County, Pennsylvania Docket, a true and correct copy attached hereto as Exhibit "C".

9. True and correct copies of the court papers listed above, excluding the Praecipe for Writ of Summons, which is attached hereto as Exhibit "A", and the Complaint, which is attached hereto as Exhibit "B", are collectively attached hereto as Exhibit "D".

JURISDICTION

10. This action is one over which this Honorable Court has original jurisdiction pursuant to the provisions of 28 U.S.C. § 1332.

11. Complete diversity of citizenship exists between the parties:

(a) It is Defendants' understanding that, based upon the averments in the Complaint and estate documents filed with the Orphan's Court of Allegheny County, Pennsylvania, Plaintiff and Decedent, at the time of his death, are and were citizens and domiciliary of the Commonwealth of Pennsylvania. *See* Exhibit "B".

(b) Defendant FTS International, Inc. is and was at the time of the commencement of this action incorporated under the laws of the State of Delaware, with its principal place of business in Fort Worth, Texas.

(c) Defendant FTS International Services, LLC, formerly Frac Tech Services, LLC, is and was at the time of the commencement of this action formed under the laws of the State of Delaware, with its principal place of business in Fort Worth, Texas.

(d) Defendant Frac Tech International, LLC is and was at the time of the commencement of this action a predecessor to FTS International, Inc., but at

the time it was active was formed under the laws of the State of Delaware, with its principal place of business in Fort Worth, Texas.

12. The amount in controversy meets or exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

13. Specifically, in the Complaint, Plaintiff alleges that damages are in excess of the applicable arbitration limits of the Court of Common Pleas of Allegheny County, Pennsylvania, which is \$35,000.00. *See* Exhibit "B".

14. Additionally, Plaintiff seeks to recover for the allegedly wrongful death of Decedent, which includes damages recoverable under the Pennsylvania Wrongful Death Act, 42 Pa.C.S. § 8301, and Survival Act, 42 Pa.C.S. § 8302. *Id.*

15. In particular, Plaintiff seeks wrongful death/survival damages for medical expenses, loss of earning power and economic loss to Decedent's estate, damages for all loss of income, and medical, funeral, and burial expenses. *Id.*

16. Plaintiff further raises a claim for punitive damages. *Id.*

17. Therefore, the amount in controversy exclusive of interest and costs, meets or excludes the jurisdictional requirements for diversity jurisdiction. *See Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1065 (11th Cir. 2010) (held that it was facially apparent in the case of wrongful death that the amount in controversy exceeded \$75,000).

18. Accordingly, this civil action is one over which this Honorable Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and which may be removed to this Honorable Court by Defendants pursuant to 28 U.S.C. § 1441.

TIMELINESS

19. This Petition for Removal was timely filed within thirty (30) days of the date Plaintiff's Complaint was filed with the Court of Common Pleas of Allegheny County, Pennsylvania.

20. Thus, this Petition for Removal is timely under 28 U.S.C. § 1446(b)(1).

VENUE AND OTHER MATTERS

21. The Court of Common Pleas of Allegheny County, Pennsylvania is located within the jurisdiction of the United States District Court for the Western District of Pennsylvania. *See* 28 U.S.C. § 118(c).

22. Accordingly, this Honorable Court is embracing the place where such action is pending and venue is proper. *See* 28 U.S.C. §§ 118(c), 1441(a).

23. Promptly after filing this Petition for Removal, Defendants will provide written notice of this Petition for Removal to all counsel and will file a copy of written notice with the Court of Common Pleas of Allegheny County, Pennsylvania, as required by 28 U.S.C. § 1446(d). *See* Notice of Filing of Petition for Removal, a true and correct copy attached hereto as Exhibit "E".

WHEREFORE, the Defendants, FTS International, Inc. and FTS International Services, LLC (incorrectly identified in the Complaint as "Frac Tech Services, LLC and Frac Tech International, LLC), remove to this Honorable Court the above-captioned action, now pending in the Court of Common Pleas of Allegheny County, Pennsylvania, and request that this action be placed on the docket for this Honorable Court for further proceedings as though this action had originally been instituted in this Honorable Court.

Respectfully submitted,

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

DATE: June 30, 2017

BY: /s/ Stuart H. Sostmann
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Services, LLC (incorrectly identified in the
Complaint as "Frac Tech Services, LLC and
Frac Tech International, LLC)*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PETITION FOR REMOVAL** has been served upon Plaintiff's Counsel on this 30th day of June, 2017 via United States First-Class Mail, postage prepaid, addressed as follows:

Jeffrey D. Ries, Esquire
Jennifer C. Bittel, Esquire
McGrail & Associates, LLC
1714 Lincoln Way
White Oak, PA 15131

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

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